Cr. Revision No.49 of 2007.

21.11.2007 Present: Mr. Lalit Sehgal, Advocate, vice Mr. Peeyush Verma, Advocate, for the petitioner.

Mr. Virender Singh Kanwar, Advocate, for respondent No.3.

In this petition filed under Section 397 read with Sections 401 and 482 of the Code of Criminal Procedure the petitioner has prayed for the quashing of order dated 12th March, 2007 passed by learned Additional Chief Judicial Magistrate, Sundernagar whereby, the complaint filed by the petitioner against several accused persons (respondents herein) has been dismissed qua Tej Pal Negi, respondent No.3 herein, who had been impleaded as accused No.3 in the complaint. The learned trial Court has dismissed the complaint qua respondent No.3 only on the ground that the correct address of respondent No.3 for his service in the complaint had not been filed by the petitioner-complainant in the trial Court.

Mr. Virender Singh Kanwar, Advocate has put in appearance on behalf of respondent No.3 in this Court today. Because of the fact that respondent No.3 has now been served and has appeared in this Court, sustaining the impugned order would be against the interest of justice because striking out the name of one of the several accused persons only on the ground of non-furnishing of the address would result in miscarriage of justice.

The impugned order accordingly is set aside. Respondent No.3 shall be deemed to continue in his capacity as accused No.3 in the aforesaid complaint. Accused No.3 (respondent No.3 herein) who is represented in this Court by Mr. Virender Singh Kanwar, Advocate, is directed to appear before the learned trial Court on 28th December, 2007, the date when the trial Court shall take up the case for the appearance of

accused No.3 irrespective of the fact that the case might have been listed before the trial Court on any other date.

The petition is disposed of.

Cr.M.P No. 188 of 2007.

In view of the disposal of the main matter this application is also disposed of.

November 21, 2007. **(V.K. Gupta), C.J.**
(rc)